IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 15340 of 2005

Between:

M/s. APSM Alloys Private Limited, 15-1-52/1,

Old Feelkhana, Hyderabad,
Rep. by its Director, Murarilal

S/o. A.P. Agarwal, aged about 45 yrs,

R/o. Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh,

Rep. by its Principal Secretary, Panchayat Raj and
Rural Development (PTS-IV) Department,

Secretariat, Hyderabad,
2 District Panchayat Officer, Mahabubnagar District

at Mahabubnagar,
3 District Collector, Mahabubnagar District

at Mahabubnagar,
4 Mudireddypally Gram Panchayat,

Rep. by its Sarpanch, Mudireddypally Village,
Balanagar Mandal, Mahabubnagar District,
5 G.V. Ramana S/o. G. Krishnaiah,
R/o. Mudireddypally Village, Balanagar

Mandal, Mahabubnagar District,
6 G.V. Kumar S/o. G. Krishnaiah,
R/o. Mudireddypally Village,

Balanagar Mandal, Mahabubnagar District,
7 D. Narasimha S/o. D. Kistaiah
R/o. Mudireddypally Village,

Balanagar Mandal, Mahabubnagar District,
8 D. Varalaxmi W/o. D. Narasimha,
R/o. Mudireddypally Village,

Balanagar Mandal, Mahabubnagar District,
9 S. Venkata Reddy S/o. Narayana Reddy,
R/o. Mudireddypally Village,

Balanagar Mandal, Mahabubnagar District,
10 S. Satyanarayana Reddy, S/o.S. Venkat Reddy
R/o. Mudireddypally Village,

Balanagar Mandal, Mahabubnagar District,
11 D. Venkateswara Reddy S/o. D. Seshi Reddy,
Hilltop Colony, Erramanjil, Hyderabad,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ declaring that the order of the 1st respondent contained in Memo No. 9985/Pts.IV/A1/2005-1 dt. 2-7-2005, purporting to stay the operation and effect of the order of the District Panchayat Officer in Proceedings No. A3/933/2005 dt. 16-6-2005, is arbitrary and without jurisdiction and direct the respondents to permit the petitioner to proceed with construction of factory building as per the approval granted by the Gram Panchayat, Mudireddypally Village, Balanagar Mandal, Mahabubnagar District and grant such other relief as it deems fit in the circumstances of the case.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondent Nos.1 and 2: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.3: G.P.FOR REVENUE

Counsel for the Respondent No.4: MR K.UPENDRA REDDY

Counsel for the Respondent Nos.7, 9 to 11:
MR C.V.NAGARAJUNA REDDY

The Court at the stage of admission made the following:

ORDER:

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This writ petition is filed seeking a Mandamus, declaring that the order of the 1st respondent in Memo No.9985/Pts.IV/A1/2005-1,

dated 02-07-2005 purporting to stay the operation and effect of the order of the District Panchayat Officer in proceedings No.A3/933/2005, dated 16.06.2005, as illegal and arbitrary, and consequentially direct the respondents to permit the petitioner to proceed with the construction of factory building as per the approval granted by the Gram Panchayat, Mudireddypally village, Balanagar Mandal,

Mahabubnagar District.

It is the case of the petitioner that in order to establish a plant in manufacturing sponge iron and allied products, he obtained necessary permission from the concerned Departments. Initially he obtained permission from the 4th respondent-Gram Panchayat on 29.10.2004 for construction of the said factory. Subsequently, he obtained permission from A.P. Pollution Control Board, Industries Department, Director of Factories and also obtained service connection from Central Power Distribution Company of A.P. Limited. He commenced the construction work in the month of October, 2004 and 70% construction work is over. In the meanwhile, at the instance of respondent Nos.5 to 11,

the 4th respondent-Gram Panchayat passed a resolution

dated 22.12.2004 cancelling the permission granted earlier to the petitioner. Being aggrieved of the resolution dated 22.12.2004, the petitioner had preferred an appeal to the 2nd respondent under Section 128 of the Gram Panchayat Raj Act, 1994 (hereinafter referred to as "the Act") and the 2nd respondent, by order dated 16.06.2005 stayed the resolution of the 4th respondent-Gram Panchayat dated 22.12.2004, and permitted the petitioner to proceed with the construction. Thereafter, respondent Nos.5 to 11 carried the matter in appeal before the

1st respondent on 28.06.2005 and the 1st respondent, contrary to the provisions under Section 264 of the Act, without giving any notice or opportunity to the petitioner, by order dated 02.07.2005, stayed the orders dated 16.06.2005 passed by the 2nd respondent. The petitioner submitted a representation to the 1st respondent on 08.07.2005 requesting to vacate the stay order dated 02.07.2005, but the

1st respondent did not pass any orders on his representation. Therefore, the petitioner is constrained to approach this Court by filing this writ petition.

Heard the learned counsel for the petitioner, the learned Government Pleader for Panchayat Raj and Rural Development and the learned standing counsel for the Gram Panchayat.

Initially the petitioner was granted permission by the

4th respondent to construct a factory, and later on, at the instance of respondent Nos.5 to 11, the said permission was cancelled by a resolution dated 22.12.2004. Being aggrieved of the same, the petitioner approached the 2nd respondent and

obtained stay of resolution passed by the 2nd respondent dated 22.12.2004. The respondents 5 to 11 have approached the Government i.e. 1st respondent against the said stay, by filing appeal on 28.06.2005 and the 1st respondent, by orders dated 02.07.2005 stayed the operation of orders issued by the

2nd respondent.

Section 264 of the A.P. Panchayat Raj Act, 1994 reads thus:

> "The Government may, either suo motu or on application from any person interested, call for and examine the record of a Gram Panchayat, the Mandal Parishad or a Zilla Parishad or of its standing committees or of any authority, officer or person, in respect of any proceeding to satisfy themselves as to regularity of such proceeding or the correctness, legality or propriety of any decision or orders passed therein and, if in any case, it appears to the Government that any such decision or order should be modified, annulled or reversed or remitted for reconsideration, they may pass orders accordingly;
>
> Provided that the Government shall not pass any order prejudicial to any party unless such party had an opportunity of making a representation."

As per the provisions under Section 264 of the Act, the

1st respondent has to give an opportunity or prior notice to the petitioner before passing the impugned order dated 02.07.2005. The

1st respondent without giving any opportunity or prior notice to the petitioner passed the impugned order.

Having regard to the facts and circumstances, as explained by the petitioner, I deem it appropriate to dispose of the writ petition, with a direction to the 1st respondent to dispose of the revision filed by respondent Nos.5 to 11, dated 28.06.2005 and representation of the petitioner dated 08.07.2005, after giving opportunity to both parties, within a period of four weeks from today. The petitioner and respondent Nos.5 to 11 are directed to cooperate with the Government in disposing of the same within stipulated time.

With the above observations, the Writ Petition is disposed of. No order as to costs.

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ELIPE DHARMA RAO,J

Dated: 15.07.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Principal Secretary,

Government of Andhra Pradesh,

Panchayat Raj and Rural Development (PTS-IV)

Department, Secretariat, Hyderabad

2. The District Panchayat Officer,

Mahabubnagar District

Mahabubnagar

3. The District Collector,

Mahabubnagar District,

Mahabubnagar

4. The Sarpanch,

Mudireddypally Gram Panchayat,

Mudireddypally village, Balanagar

Mandal, Mahabubnagar District

5. Two CCs to the Government Pleader for

Panchayat Raj & Rural Development, and the

Government Pleader for Revenue,

High Court Buildings, Hyderabad (OUT)

6. Two CD copies

7. 1 CC to MR.NAGARJUNA REDDY

*Form-NIC-OGS/WP{**VSMI**}*